

A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310. (This is a GIL).

February 18, 2000

Dear Xxxxx:

This letter is in response to your letter dated January 25, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am writing to request a reduction of the Illinois sales tax rate for a new medical product that my company, COMPANY is about to begin selling in Illinois. It is a medical device which consists of padded underwear to protect the hips of the elderly from hip fracture. The pads buttress and provide strength to the underlining hip bones that are depleted of calcium and other structural components by age and loss of ovarian function. In reality, they are replacing bone substance function, as would a pharmaceutical. These pads are able to prevent both hip injury and fractures resulting from falls. Many of our potential customers are on a limited income and reduction of our CITY,Il tax rate of 6.75 to 1.25% for this product would benefit the elderly. In addition, reduction of Illinois hip fractures will greatly benefit the state's Medicaid budget, since each fracture costs over \$25,000 in the first few weeks after the injury. The device consists of 3 pair of underwear with pockets located over the hips and two force absorbing pads that are inserted into the pockets to provide protection. The PRODUCT has a suggested retail price of \$90.00. We would appreciate a brief letter documenting any decision to allow us a sales tax reduction for this product. I'm enclosing an old brochure which contains some photographs of the product. The former name of our company was BUSINESS, which explains the name on the brochure.

All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided.

Medicines and medical appliances are not taxed at the normal rate of 6.25% plus local taxes. These items are taxed at a lower rate of 1% plus local taxes. See the enclosed copy of 86 Ill. Adm. Code 130.310.

A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See part (c) of Section 130.310. Medical

devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate. Some of the products specifically listed in the regulation as qualifying for the reduced rate are home glucose monitors, home blood glucose test strips and related supplies used to treat human diabetes. Other products that directly substitute for a malfunctioning part of the body include urological catheters, leg bags, ostomy pouches and drain bags, and mastectomy prosthetic devices such as forms and bras.

Please note that supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues and towelettes and cosmetics, such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. However, sterile dressings, bandages and gauze do qualify for the reduced rate.

The padded underwear you intend to sell is merely a protective device similar to a bicycle helmet or kneepads. It is not used to directly substitute for a malfunctioning part of the body and does not qualify for the lower tax rate.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.